

# 2005 Revenue Legislation

The following is a summary of the major legislation passed by the 2005 Legislature that relates to taxes collected by the Nebraska Department of Revenue.

## Income Tax

### ***Charitable Contributions***

An income tax credit for planned gifts to a qualified endowment is allowed for resident individuals, shareholders of small business corporations, partners of partnerships, members of limited liability companies, C corporations, and resident estates or trusts. The tax credit is equal to a percentage of the present value of the gift with a limitation of \$10,000 per taxpayer and is limited to the amount not deducted for income tax purposes. Operative for tax years beginning on or after January 1, 2006 through December 31, 2009. (LB 28)

### ***Apportionment***

Small business corporations and limited liability companies are required to apportion their income if taxable in another state. If the corporation or company is not taxable in any other state, all income is taxable in Nebraska. Operative for tax years beginning on or after January 1, 2005. (LB 216)

### ***Amended Returns***

Any taxpayer filing an amended income tax return seeking a refund or credit of tax must file the amended return within 90 days of receiving proof of federal acceptance of the credit or refund or within the statutory time for filing an amended return, whichever is later. Effective September 4, 2005. (LB 216)

### ***Deficiency Determinations and Extensions***

A notice of deficiency may be mailed to a pass-through entity's, (partnership, S corporation, or limited liability company) last known address or that of its federal tax matters person and shall be deemed to be received by the entity's partners, shareholders, or members. In addition, an extension of the statute of limitations that is signed on behalf of a pass-through entity will also extend the time allowed for a deficiency against the entity's partners, shareholders, or members with respect to any item of entity income. Effective September 4, 2005. (LB 216)

### ***Community Development Assistance Act***

Individuals are now eligible for the income tax credit allowed for contributions to eligible community betterment projects. Operative for tax years beginning on or after January 1, 2005. (LB 334)

## Sales Tax

### ***Home Health Agencies***

Beginning October 1, 2005, purchases by nonprofit Nebraska-licensed facilities providing home health care services, hospice or hospice services, or respite care services are exempt from tax. This exemption replaces the exemption previously provided to nonprofit organizations providing home health care services. (LB 216)

### ***Meals Sold by School Organizations***

Beginning October 1, 2005, meals sold by parent-booster clubs, parent-teacher associations, parent-teacher-student associations, or school-operated stores are exempt from tax when the proceeds are used to support the school activities or the school itself. (LB 216)

### ***Telephone and Cable Wiring***

The services of contractors to install, construct, service, or remove property used in conjunction with the furnishing, installing, or connecting of telephone or cable service are exempt when associated with an exempt contractor labor project. In addition, prior to October 1, 2003, the services of an Option 2 or Option 3 contractor, other than as a subcontractor of a public utility, to install, construct, service, or remove property used in conjunction with the furnishing, installing, or connecting of cable service are exempt on the customer's side of the utility demarcation point. Retroactive application to October 1, 2003. (LB 753)

### ***Manufacturing Machinery and Equipment***

Beginning January 1, 2006, purchases of manufacturing machinery and equipment are exempt from tax. In addition, sales tax does not apply to any installation, repair, and maintenance services performed on manufacturing machinery and equipment. (LB 312)

## Homestead Exemption

### ***Certification of Application***

Applications for homestead exemption may now be certified not only by physicians, but also by physician assistants or advanced practice registered nurses. Effective September 4, 2005. (LB 17)

### ***Veterans' Eligibility***

Veterans receiving a general discharge from service under honorable conditions will be eligible for homestead exemption benefits the same as veterans receiving an honorable discharge. Effective for applications filed on and after March 10, 2005. (LB 54)

## Withholding Tax

### ***Partnerships***

Publicly traded partnerships are not required to withhold income tax from each nonresident individual partner based on income earned within Nebraska, provided the partnership agrees to file an informational return with the department identifying each partner with Nebraska income in excess of \$500. Operative for tax years beginning on or after January 1, 2005. (LB 216)

### ***Pension and Annuity Payments***

Beginning January 1, 2006, employer-sponsored pension and annuity payments are subject to the same withholding requirements as wages and other payments when such payments are subject to federal withholding. (LB 216)

**Withholding Agent**

Employers may appoint an agent for purposes of withholding income tax. The employer and the agent will be jointly and severally liable for the withholding tax. Effective September 4, 2005. (LB 216)

**Tax Incentives**

Two of Nebraska's tax incentive programs were changed and 2 additional programs were added. Additional information on these changes will soon be available on the department's Web site. These changes become effective January 1, 2006. (LB 312)

**Nebraska Advantage Act**

The tax incentive program known as the Employment and Investment Growth Act (LB 775) is replaced with the Nebraska Advantage Act. Businesses may qualify for benefits under 5 different tiers of new investment and new jobs ranging from an investment of at least \$1,000,000 and the hiring of at least 10 new employees to \$30,000,000 of new investment and maintaining the same number of employees. A nonrefundable fee is required with the application.

**Nebraska Advantage Rural Development Act**

The tax incentive program known as the Employment Expansion and Investment Incentive Act was renamed the Nebraska Advantage Rural Development Act. The income tax credits are available to businesses which make investment in new property and add employees. There are required levels of employment and investment for counties with populations of less than 25,000 and less than 15,000. Teleworkers working from home may qualify as employees for purposes of determining the credits. The \$500 application fee continues to apply to this program.

**Nebraska Advantage Research and Development Act**

A new tax incentive program was adopted for any business which makes investment in research and experimental activities. Qualified businesses are allowed a research tax credit equal to 3% of the amount expended in research and experimental activities in excess of the average amount expended in the previous 2 years. The credit may be used to obtain a refund of sales and use taxes paid, or as a refundable income tax credit.

**Nebraska Advantage Microenterprise Tax Credit Act**

A new tax incentive program was adopted for businesses creating or expanding microbusinesses (5 or fewer employees) that contribute to the revitalization of economically distressed areas. Upon approval of an application, qualified taxpayers are entitled to refundable tax credits equal to 20% of new investment or employment. Credits expire 1 year after being earned and are limited to \$10,000 per taxpayer.

**Miscellaneous****Appeals of Tax Commissioner Decisions**

Any appeal of a final determination of the Tax Commissioner, other than for income tax, must be filed in the District Court of Lancaster County. Effective September 4, 2005. (LB 216)

**Litter Fee**

The Nebraska Litter Reduction and Recycling Act has been extended to October 30, 2010. (LB 33)

**Documentary Stamp Tax**

Effective July 1, 2005, the documentary stamp tax is increased from \$1.75 to \$2.25 for each \$1,000 of value of real estate subject to a transfer of title. Proceeds from the increased tax will be distributed to the Affordable Housing Trust Fund and the Behavioral Health Service Fund. (LB 40)

**Estate Tax**

For decedents dying on or after January 1, 2003, the estate tax liability must be apportioned based on the amount of property located in Nebraska compared to the entire estate. (LB 499)

**Limited Liability Managers**

Members of a limited liability company, including members acting as managers, are liable for unpaid taxes imposed on the limited liability company. Effective September 4, 2005. (LB 216)

**Electronic Funds Transfer Payments**

The threshold at which taxpayers may be required to remit taxes or fees using electronic funds transfer will be lowered from \$100,000 to \$20,000. The Tax Commissioner will notify affected taxpayers at least 3 months prior to the date the electronic payments will be required. Operative for payments made after January 1, 2006. (LB 216)